

# **EXHIBIT C**

## Kate M. Olson

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**From:** Lawson, Joel (OP) <joel.lawson@dc.gov>  
**Sent:** Tuesday, November 20, 2018 10:34 AM  
**To:** Kate M. Olson  
**Cc:** LeGrant, Matt (DCRA); Steingasser, Jennifer (OP); Lyle M. Blanchard  
**Subject:** RE: Question re Max NonRes FAR in MU-4 Zone (Subtitle G Section 402.2)

Hi Kate – sorry it has taken a while to get back to you, but this has actually taken a fair amount of research and discussion to confirm our response.

I went through the transcripts and the Orders related to this amendment, and it is very clear that OP and the Zoning Commission intended this allowance to apply **ONLY** to existing buildings and not to new buildings. That is clear from the first part of the text of the provision as well. The last sentence, admittedly, is a bit confusing but based on the discussion and the drafts of text, we are confident that it was intended to address additions to existing buildings – i.e. the new construction is not a new building but rather a new addition to an existing building. We will add this to our list of things to clarify. But for now, our position is that the ZC very clearly intended this extra .5 FAR allowance only for existing buildings on lots of 10,000 sq.ft. or less, to aid in their successful adaptive reuse.



**Have a good day.**

**Joel Lawson** • Associate Director, Development Review

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**From:** Kate M. Olson <kmo@gdllaw.com>  
**Sent:** Monday, November 19, 2018 2:04 PM  
**To:** Lawson, Joel (OP) <joel.lawson@dc.gov>  
**Cc:** LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>; Steingasser, Jennifer (OP) <jennifer.steingasser@dc.gov>; Blanchard, Lyle M. (DCRB) <lmb@gdllaw.com>  
**Subject:** RE: Question re Max NonRes FAR in MU-4 Zone (Subtitle G Section 402.2)  
**Importance:** High

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Hi Joel,

This remains an outstanding issue. Have you had a chance to review?

Please let me know as soon as possible.

Thanks,  
Kate



**Kate M. Olson, Esq.**

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**From:** Kate M. Olson

**Sent:** Tuesday, October 2, 2018 2:58 PM

**To:** 'joel.lawson@dc.gov'

**Cc:** 'LeGrant, Matt (DCRA)'; [Jennifer.Steingasser@dc.gov](mailto:Jennifer.Steingasser@dc.gov); Lyle M. Blanchard Esq. ([LMB@gdllaw.com](mailto:LMB@gdllaw.com))

**Subject:** RE: Question re Max NonRes FAR in MU-4 Zone (Subtitle G Section 402.2)

Hi Joel,

Any thoughts about the question I posed below regarding the interpretation of Subtitle G Section 402.2?

Thanks,

Kate



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**From:** Kate M. Olson

**Sent:** Thursday, September 13, 2018 6:33 PM

**To:** 'joel.lawson@dc.gov'

**Cc:** 'LeGrant, Matt (DCRA)'; [Jennifer.Steingasser@dc.gov](mailto:Jennifer.Steingasser@dc.gov); Lyle M. Blanchard Esq. ([LMB@gdllaw.com](mailto:LMB@gdllaw.com))

**Subject:** Question re Max NonRes FAR in MU-4 Zone (Subtitle G Section 402.2)

Hi Joel,

Thank you for meeting with us on 8/31/18 to discuss the proposed commercial project at 1803 Rhode Island Avenue, NE in the MU-4 Zone District. We discussed a lot in that meeting, including the several areas of zoning relief the applicant

will need to request from the BZA, and we really appreciated your feedback. I have a follow up question with regard to the **maximum allowable nonresidential FAR**.

## **I. CURRENT ZONING LANGUAGE**

As you know, MU-4 allows a max of 1.5 FAR for non-residential use (Subtitle G Section 402.1). When we were discussing FAR you asked whether the provision allowing for up to 2.0 FAR for a non-residential use would apply to this Project. At the time we did not really get into the nitty gritty of that section and instead I said I would follow up with Matt Le Grant to see if that section (Subtitle G Section 402.2) would apply to the proposed project.

### **Subtitle G Section 402.2 states,**

**"In the MU-4 and MU-5 zones, an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less, may have a maximum density of 2.0 FAR for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story. For new construction, any additional use is limited to 0.5 FAR."**

I met with Matt (*copied on this email*) this morning and I asked him whether this section applies to the proposed project. **Matt asked that I email you (and copy him) and ask whether OP has interpreted this section. Specifically with regard to the second sentence that I have underlined and put in red font.**

## **II. PROPOSED DEVELOPMENT**

Facts on the proposed project:

- Lot Area = 3,346 sf. [*so, it under the 10,000 sf*]
- Demolishing the existing 1 story restaurant [*no additions will be made to the existing building. It will be demolished*]
- Proposing a new 2-story Commercial Building (commercial uses: on both floors, within the cellar, and in a rooftop bar located within the penthouse habitable space)[*so, there will be non-residential uses located on the ground story and the story directly above the ground story*]

**Does this mean that the proposed project is allowed an additional .5 FAR as a matter of right and is therefore permitted a maximum nonresidential 2.0 FAR?**

Thanks for your help with this question.  
Kate



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